

Subject: FW: Updates
From: "Sarin, Manish" <manish.sarin@hp.com>
Received(Date): Fri, 12 Aug 2011 13:42:01 -0400
To: "Johnson, Andy (Corp Dev)" <andyjohnson@hp.com>,"Hsiao, Emily (SCD)" <emily.hsiao@hp.com>,"Bhagat, Varoon" <varoon.bhagat@hp.com>,"Binns, Rob" <rob.binns@hp.com>,"Walton, Emma" <emma.walton@hp.com>

FYI

From: Andrew Kanter [mailto:andrewk@autonomy.com]
Sent: Friday, August 12, 2011 10:28 AM
To: Sarin, Manish
Cc: 'Andrew Kanter'
Subject: RE: Updates

Hi Manish

Final two answers for you.

- Re Quota: I recall that this was discussed on a previous call. For reps that survive two quarters quota achievement is slightly over 50%. The distribution for the variable payout ranges from zero of course to the highest payout last year of just over \$1 million in one quarter for a \$9 million transaction (~11%). The sales compensation plan is able to be rich compared to industry averages because of the high margin nature of the sale, which should help with retention risk.

- Re the Top 40 contracts, I can confirm that the revenue / customer shown on the page includes license + maintenance + service revenue, ie the contracted value. The amounts are from the beginning of FY10 so the total value is actually around 20% coverage for FY10 revenue. Please note that not all of the contracted value has been recognized yet (for example some professional services, maintenance, etc) so we would estimate the coverage to be perhaps 1% to 2% lower.

Please feel free to ring any time with any questions.

Regards

--Andy

From: Andrew Kanter [mailto:andrewk@autonomy.com]
Sent: 12 August 2011 16:02
To: 'Sarin, Manish'
Cc: 'Andrew Kanter'
Subject: RE: Updates

Hi Manish

We've placed into the data room the SSA documents, which I've also attached.

More to follow.

Regards

--Andy

From: Sarin, Manish [mailto:manish.sarin@hp.com]
Sent: 12 August 2011 15:00
To: Andrew Kanter
Subject: RE: Updates

Got it. You have been very helpful and it's all headed in the right direction. Is the aceteam also helping you out?

From: Andrew Kanter [mailto:andrewk@autonomy.com]
Sent: Friday, August 12, 2011 6:57 AM
To: Sarin, Manish
Subject: RE: Updates

BTW I keep cc'ing myself so that I have a record for 20.2 purposes.

From: Sarin, Manish [mailto:manish.sarin@hp.com]
Sent: 12 August 2011 03:05
To: Andrew Kanter
Cc: Robison, Shane; Johnson, Andy (Corp Dev)
Subject: RE: Updates

Andy –

As always, thank you for sending over information – our teams have been reviewing today. I have listed a few more items below (at least, the list is growing smaller every day ☺)

Legal

1. We are unable to locate the OEM agreement with IBM in the data room – could you please point out where it is
2. Do you have any escrow contracts where a change of control is a trigger for release? Please name counterparty and provide copies – rationale is straightforward
3. Please indicate how many agreements you have which contain uncapped indemnities, and in particular, uncapped liability for personal data – some of the hosting contracts have such terms and while this may be a rare occurrence, just trying to gauge risk profile
4. Please provide copies of the SSA, direct contracts with the U.S. Government and the Company GSA schedule

SLA / Revenue

1. I'd like to have a quick call with you to better understand the SLA and financial information you provided
2. Also, your note below on SI implies that SIs influence only a small proportion of your revenues. However, page 12 of Tesla's annual report states "... has over 400 Value Added Resellers such as Accenture, IBM Global Services, Cap Gemini, HP and Wipro. This is Tesla's primary revenue channel. " Maybe you can help me bridge the disconnect here
3. Please provide sales quota attainment in FY10 – a) % attainment and b) distribution for the variable pay out. I am trying to gauge the range of variable pay out as Tesla has uncapped plans and also help us get our arms around sales retention risk

Contracts

1. We have reviewed the Top 40 contracts FY10 in the data room. Should the revenue / customer shown on the page include license + maintenance + service revenue? If so, it seems total value ~ \$300mm and would imply a 35% proportion of Tesla's FY 10 revenue. Please confirm

Let me know when you'd be in a position to release some of the "red" items.

Please call if you have questions.

Warm regards

Manish

From: Andrew Kanter [mailto:andrewk@autonomy.com]
Sent: Thursday, August 11, 2011 10:28 AM
To: Sarin, Manish
Cc: Robison, Shane; Johnson, Andy (Corp Dev); 'Andrew Kanter'
Subject: RE: Updates

Hi Manish,

Thanks for this and the other follow-up. FYI, more documents redacted overnight should now be available for your review.

- IBM OEM: The document has been uploaded to the data room.
- Apache and LGPL or GPL: We can confirm that all such libraries are stored separately in their original form as obtained from the open source provider, thus are not combined or "mixed".
- SIs: The influence of any one partner is going to vary significantly from year-to-year based on participation in major deals. Most importantly normally our software is of vital importance to a large project so we will receive the paper directly, not as a subcontractor. Of course we think this is an area of significant growth for this transaction as some of the deals we win with partners have not included a bid by Barcelona. The top 5 brand name SIs (ie not small, specific industry focused SIs such as in the

Federal security space) over the past year would be Cap Gemini, Fujitsu, IBM Global Services, Logica and Sapient. During 2010 they influenced deals worth between \$15 million and \$20 million.

- SLAs: We've uploaded into the dataroom redacted reports for violation payouts for 2011 YTD. Total payout is a little over \$7,000 YTD. This compares with total payout in 2010 of about \$22,500.

- Spurs: I believe you are correct that this transaction would trigger a third year of sponsorship. An opportunity! The relevant document has been in the dataroom for a bit of time now. Let me know if you can't find it and we'll have a copy pulled. This was also discussed in detail on the final finance call the other day.

- Revenue: Revenue by product category from 2008-2010 produces some distorted numbers because of acquisitions during that time. Recall that Zantaz was completed in mid-2007 which has a disproportionate impact on Protect during 2008. Interwoven completed early in 2009, which means that Promote is higher in 2009 than in 2008. We can not track revenue at the individual branding convention (eg Virage Videologger) because of the severable nature of the product and the nature of the sale. For example if you look at Agreement #10 you can see the varied list of components and get a sense of why this information is hard to track. That being said, we do keep estimates of strength in the different "Ps" ie Power, Protect and Promote, and the main areas underneath each of them (ie archiving in Protect or website optimization in Promote). I'll send the details shortly.

As always, please let me know if there are any specific areas of inquiry we can help you with.

Regards

--Andy

From: Sarin, Manish [<mailto:manish.sarin@hp.com>]

Sent: 11 August 2011 03:58

To: Andrew Kanter

Cc: Robison, Shane; Johnson, Andy (Corp Dev)
Subject: RE: Updates

Hi Andy –

Thank you for opening the information flow – I believe many documents were made available today and our legal team is reviewing. In the spirit of surfacing items still to be provided, below is a short list –

IP (comments from our IP team)

1. OEM agreement with IBM. This is the agreement that we understand from our last conversation with Andy includes a list and/or a representation of the open source components included in certain Tesla products licensed to IBM. We have seen the legacy (2002) Verity OEM agreement with IBM in data room, but understood there was a more recent direct contract b/t Tesla and IBM
2. Could Tesla confirm that in packages where Apache and LGPL or GPL components are present, (1) Apache code and (2) LGPL or GPL code are not combined or “mixed” and that LGPL or GPL elements are kept in their own libraries?

Sales

Sales generated / influenced by your Top 5 SIs in FY10 (in particular IBM Global Services, Accenture, Wipro) – looking to determine if some of our key services competitors influence a significant proportion of revenues

Other

SLA report – per our discussion yesterday

Arrangement with Tottenham Hotspur. Am I correct in understanding that we'd have an irrevocable liability for GBP 11mm for 2012 / 2013?

Our Legal team may have a few more questions / open items as they complete their review of the new material posted today, which I will forward tomorrow. Our two “red” items from yesterday still stand – 1) sales pipeline review and b) open source code scan .

Please call if you have questions.

Warm regards

Manish

From: Andrew Kanter [<mailto:andrewk@autonomy.com>]
Sent: Wednesday, August 10, 2011 5:46 AM
To: 'Andrew Kanter'; Sarin, Manish
Cc: Robison, Shane; Johnson, Andy (Corp Dev)
Subject: RE: Updates

Hi Manish

Quick update on where we're at on the below. Comments in caps in line with my message from before.

Give me a ring if you've got any questions.

Regards

--Andy

From: Andrew Kanter [<mailto:andrewk@autonomy.com>]
Sent: 10 August 2011 10:16
To: 'Sarin, Manish'
Cc: 'Robison, Shane'; 'Johnson, Andy (Corp Dev)'
Subject: RE: Updates

Thanks Manish. This seems like a much better approach so we should be able to make good progress. Let us know if there are any other documents like the SLA report that are actually proxies for getting a wider understanding of the business. You'll probably get more information that way.

The below list looks pretty good. Getting some stuff requires reaching into other parts of the organization so we'll need to be sensitive; also some of it is in California so there may be time zone issues to get it all today. In terms of what we'll try and accomplish today:

- The blinkx license has been sent off to the data room people. There is nothing in there that would obligate an acquirer in any wider way than the standard license terms which are part of the agreement. so that should be concluded – THIS SHOULD BE UP NOW.
- We'll work to gather the OEM agreements. Like other commercial agreements we'll need to take guidance from the lawyers/bankers whether some detailed commercial terms should be redacted, but I don't think that will in practice cause you an issue. – GATHERING. WE'VE SENT OFF FOR PROCESSING THE ORACLE AND IBM DOCS. MORE TO FOLLOW.
- The other data requested below
- Oracle docs, although again some of this is just commercial-off-the-shelf (ie over the Internet) purchases – WE'VE SENT OFF THE ORACLE-AS-CUSTOMER DOCUMENTS. GATHERING FROM CALIFORNIA THE ORACLE-AS-VENDOR DOCS (IF ANY).
- Hosting vendor contracts – FIRST OF THESE HAVE BEEN SENT OFF TO UPLOAD. GATHERING THE OTHERS.
- What we can on the inbound licenses. One thing to note there is that some of the information requested relates to products we no longer ship (eg EAS, Nearpoint) so it's a bit an exercise especially the request for how we would replace it. – WE SHOULD HAVE AN UPDATED SCHEDULE WITHIN AN HOUR. NOTHING OF NOTE JUMPS OUT FROM IT.
- A summary of the current pipeline. The detailed call needs to be considered “red” as discussed at our first meeting so would be part of any final conversations.

- You've got the SAS70 report as discussed.

The final two items remain something to discuss. We are looking at ways round the issues to provided helpful data perhaps by a different model. Black Duck in particular has already set off rounds of damaging reverberation that we're working hard to contain.

Let us get to work on these items and we'll catch up later. Seems like a much better plan.

Regards

--Andy

From: Sarin, Manish [<mailto:manish.sarin@hp.com>]
Sent: 10 August 2011 06:52
To: Andrew Kanter
Cc: Robison, Shane; Johnson, Andy (Corp Dev)
Subject: RE: Updates

Andy –

Appreciate the prompt response. On your points –

1. Found the SAS 70 report. I can only surmise that Slaughters probably don't use the IDOL engine otherwise we would have found the report much sooner ☺
2. On the hosting SLAs, I am less concerned about the payouts, although it is comforting to know that the payouts under the SLAs are that small. We are just looking to understand, and verify, how the hosting business is managed. As your hosting business grows and becomes a much larger component of group revenue, it would help us understand how management monitors SLAs, reviews processes and communicates with customers that their valuable data is safe and managed consistently within the SLAs agreed with them at contract signing. I am not looking to create any additional work for you. Are there off-the-shelf / regularly produced management reports (monthly / quarterly) that you use to manage the ~ \$300mm business? Alternatively, is there a sample report you send to customers (e.g. Deutsche Bank) whose data you host on hosting performance metrics? I am hard pressed to believe there are no such reports you could make available to us.

I am, of course, happy to discuss over the phone as well.

Warm regards

Manish

From: Andrew Kanter [<mailto:andrewk@autonomy.com>]
Sent: Tuesday, August 09, 2011 8:33 PM
To: Sarin, Manish
Cc: Robison, Shane; Johnson, Andy (Corp Dev)
Subject: Re: Updates

Thanks Manish. We'll have a look. One thing that jumps out: as discussed on the hosting call payouts on SLAs for hosting are tiny (YTD about \$7000 on something like \$300 million in revenue). Can you help us understand why that type reporting is a must have open item.

Also the SAS 70 report has been in the data room for many days. Let me know if you can't find it.

On 10 Aug 2011, at 03:22, "Sarin, Manish" <manish.sarin@hp.com> wrote:

Andy –

Thank you for providing the additional color, it's very helpful! To close the loop on the "must have" open items, below is a short list of items we are requesting.

IP/Legal

1. Blinkx IP arrangement – intent being to ascertain if we were to divest of that stake, are we under any IP obligations
2. IBM OEM agreement (including schedules) – as discussed over the phone

3. OEM agreements with GE, Iron Mountain, Symantec, Open Text, Dassault Systems
4. Top 10 OEM customers by revenue for FY10 (and IBM, Oracle, EMC, CA and SYMC if not in top 10 list) – we take your point about the OEM list being fragmented and would like to see the data for the most recent fiscal year
5. All agreements with Oracle – as discussed over the phone
6. Agreements with top 5 hosting vendors and any material contracts with other suppliers – as discussed over the phone
7. Underlying contract for inbound licenses – we have attached a much shorter list for inbound licenses that we'd like to see (attachment)

Finance

1. Sales pipeline call that gives us a sense for pipeline to revenue conversion, pipeline build process, methodology for guiding the Street, Q3 and FY11 forecast among others
2. SAS 70 report – as discussed
3. SLA reports – as discussed with Qatalyst

In addition, there are some items that had been tabled previously, and I'd like to press for their release to us (below).

1. Permission to perform a limited scope, open source audit (this is a black box process and we do not get access to the code). Happy to talk you through it if there is a concern on how the process works
2. Deloitte auditor working papers

I trust you'd appreciate that we are trying hard to focus on the key open items through this very short open item list.

Please do not hesitate to reach out if there are any questions or concerns.

Warm regards

Manish

From: Andrew Kanter [<mailto:andrewk@autonomy.com>]
Sent: Tuesday, August 09, 2011 3:59 PM
To: Sarin, Manish
Cc: Robison, Shane
Subject: Updates

Hi Manish

Pleasure to speak with you earlier tonight. I appreciate the time and the openness. We discussed getting down to a few core issues, and you're going to send me a list overnight so we can get to the heart of the key matters. We'll do our best.

There were a few specific things that came up as examples on the call. I thought it might be useful to have a bit of feedback on those issues tonight.

On the OEMs revenue stream, I can confirm that the IBM OEM agreements have produced about \$13 million over the past five years, Oracle is about \$5 million and Xerox is about \$2 million (excluding maintenance, upsells, etc).

In terms of the OEM licenses in, I think it's come up a few times but can confirm that none of the licenses in are considered fundamental. We spend virtually nothing on software licensed into the core products and shipped as an OEM. Typical spend is less than \$25,000 per quarter on components. For your assistance I've re-attached the list we uploaded into the data room. Let me know if there are specific line items that you need more background on as material.

On the topic of Oracle, our spend with them is trivial at less than \$30,000 per year. We're working to gather any paperwork we can on these purchases but I believe they're mostly online so normal commercial terms.

Finally the other material customer agreements that were requested today were all passed to the data room people for redaction. I'll let you know when they've been released into the room.

As discussed, let us help guide you through the material issues, which given bandwidth available and the need for confidentiality seems like a better use of time than burning cycles on the trivial.

Speak to you tomorrow.

Regards

--Andy

<List of IP_IT follow-up questions on TP licences_OSS (2) (2) (2).docx>

United States District Court
Northern District of California

Trial Exhibit 2238

Case No: CR 18-0577 CRB

Date Entered: _____

By: _____

Deputy Clerk